

## **PROBATE CALENDAR NOTES**

**August 4, 2015**

**1:30 p.m., Department 40**

The following are the Probate Calendar Notes for the probate calendar set for hearing August 4, 2015, in Department 40, Commissioner Michael Jacques, presiding. Department 40 is located at 10820 Justice Center Drive, Roseville, California.

IF THE CALENDAR NOTES STATE THAT A DOCUMENT IS MISSING AND YOU HAVE A FILE-ENDORSED COPY OF THAT DOCUMENT, PLEASE FAX A COURTESY COPY OF THAT DOCUMENT TO (916) 408-6275. THE COURT DOES NOT ACCEPT DIRECT FAXES FOR FILING. ANY UNFILED DOCUMENT FAXED TO THIS LINE WILL NOT BE FILED.

Pursuant to Local Rule 80.1.4, these calendar notes are not a tentative ruling on the merits of any matter before the court. Updated calendar notes will ordinarily be posted on the court day prior to the calendar, but may be posted at any time. If you have questions regarding the calendar notes, please contact the probate research attorney at (916) 408-6119 after checking for updated notes. Do not contact Department 40 directly.

Telephone appearances for this calendar are governed by Local Rules 20.8 and 80.1.2 (effective July 1, 2014). More information is available at the court's website, [www.placer.courts.ca.gov](http://www.placer.courts.ca.gov). For assistance, please contact the Civil Division.

---

**1. S-PR-0005230 Haley, Kima Rene - In Re the Estate of**

Appearance is required for citation hearing re closing the estate.

**2. S-PR-0005243 Eastman, Radcliffe Orville - In Re the Estate of**

Appearance is required for citation hearing re closing the estate.

**3. S-PR-0005397 Schweitzer, Gwendolyn Eddy - In Re the Estate of**

Appearance is required for citation hearing re closing the estate.

Executor's attorney's unverified response is insufficient. Executor is required to file, notice for hearing, and serve a verified report of administration, Prob.C. §§ 12200-12201. Executor is also required to account annually, Prob.C. § 10950. Note: the Probate Code does not appear to contemplate extending estate administration for the sole purpose of exhausting a statute of limitations relating to an estate tax return, Prob.C. § 12200(b).

**4. S-PR-0006038 Hobbs, James M. - In Re the Estate of**

Appearance is required for continued hearing on petition for final distribution.

Missing service of notice of hearing to Daniel Hobbs. A final distribution petition effectively terminates any possible testate or intestate interest of Hobbs, and no notice should be required under § 11601. Petitioner argues no notice should be required because Hobbs is disinherited. Court determination is needed.

Report reveals that virtually all costs of estate administration will be allocated to petitioner and to Nadine Norton, rather than to estate residue. Estate cash was almost entirely generated from sale of the Penryn property, which was to be specifically devised. Petitioner's response does not address the fundamental issue that petitioner converted only specifically devised property to cash and thereby charged virtually costs of administration to that property, rather than to the estate residue. Points and authorities in support of this allocation and court determination are required.

Final account fails to allocate receipts, disbursements and distributions to principal and income as required by the Uniform Principal and Income Act (see Prob.C. §§ 16323 & 16339); see also CEB FIDUCIARY ACCOUNTING HANDBOOK §§ 4.18, 4.20, 5.7, 8.3, 10.8, 11.4, etc.). Prob.C. § 1063(c) appears to excuse a separate schedule of allocations, but does not appear to eliminate the requirement for allocations within the account. It appears a revised accounting is needed. Court determination is needed.

Missing verification to objections of Patricia Norton, Prob.C. § 1021.

Response by petitioner to objections of Patricia Norton is needed.

**5. S-PR-0006720 Powers, Richard Rhodes - In Re the Estate of**

The court reserved this hearing by order July 14, 2015, but no noticed petition for fees was filed or served as contemplated by that order. As no moving papers having been filed, this hearing should be dropped.

**6. S-PR-0006959 Snyder, Ramon L. and Linda L. - In Re the Trust of**

*Probate notes for this proceeding will be available Monday, August 3, 2015. Please check back for updated notes.*

**7. S-PR-0007029 Garren, J.A. - In Re the Estate of**

Appearance is required for continued hearing on petition / motion for IAEA powers.

Clarification is needed: in light of the stipulation and order entered ex parte April 8, 2015, it appears the petition / motion for IAEA powers may be moot.

**8. S-PR-0007035 Gerlach, Jean A. - In Re the Estate of**

*Probate notes for this proceeding will be available Monday, August 3, 2015. Please check back for updated notes.*

**9. S-PR-0007203 Cumley, Winona - In Re the Estate of**

Appearance is required for continued hearing on petition for final distribution. The court has not yet received the consents referred to in the July 30, 2015, declaration of counsel.

**10. S-PR-0007465 Felter, C.R., Jr. - In Re the Estate of**

Appearance is required for continued hearing on petition for final distribution.

Missing copy of transfer agreement and transferee declaration in support, Prob.C. § 11604.5(d). The agreement must be filed with the court, id. at (d)(1).

Court determination needed: it is recommended notice be required to assignor, Prob.C. § 1202.

**11. S-PR-0007501 Palazzi, Mary J. - In Re the Estate of**

Clarification is needed: petition alleges that estate no cash on hand; it is unclear how attorney fees are to be paid.

Proposed distribution is contrary to intestacy. The share passing to post-deceased spouse Tommy R. Palazzi passes to the personal representative of his estate, not directly to person(s) who may be entitled to distribution from that estate.

**12. S-PR-0007517 Ambriz, Linda Kay - In Re the Estate of**

Missing notice of hearing and service of notice of hearing.

Clarification is needed re attorney fees: petition states that "Petitioner and petitioner [sic] intend to negotiate a lower amount of compensation," rather than ordinary statutory compensation. The court must fix compensation, not leave it to the later determination of petitioner and counsel.

**13. S-PR-0007532 Chulick, Isabel Ellen - In Re the Estate of**

Clarification is needed: petition alleges that estate has only minimal cash on hand; it is unclear how attorney fees and potential taxes are to be paid.

**14. S-PR-0007557 Getty, Robert and Barbara - In Re the Trust of**

Appearance is required for status hearing.

It is recommended the court issue an order to show cause re dismissal of the petition in light of the prior representation that the matter had settled.

**15. S-PR-0007611 Plummer, Daisy M. - In Re the Estate of**

Petition for final distribution is recommended for approval as prayed.

**16. S-PR-0007742 Gouveia, Jose G. - In Re the Estate of**

Missing notice to intestate heir(s) of decedent's estate. Petitioner appears to misapprehend the effect of the disclaimers filed by decedent's parents. The disclaimers result in disclaimants' interest passing "as if the disclaimant[s] had predeceased the creator of the interest" (Prob.C. § 282). That is, the estate passes, under Prob.C. § 6402(c), first to surviving issue of decedent's parents, then to grandparents and their issue (subdiv. (d)), etc. No person(s) who is (are) the resultant intestate heir(s) has (have) been identified to the court or given notice of these proceedings.

Petitioner should also be prepared to address how this matter should proceed where petitioner is both claimant against the estate and administrator of the estate who has a fiduciary obligation to the beneficiaries of the estate.

**17. S-PR-0007769 Cristanelli, Livio L. - In Re the Estate of**

Missing renewed publication as required by C.R.C. 7.53(a) for amended petition.  
Missing authenticated copy of beneficiary trust or declaration of trust terms, Local Rule 80.2.1.

**18. S-PR-0007793 The Boltman Compliant Irrevocable Trust - In Re the Trust of**

*Probate notes for this proceeding will be available Monday, August 3, 2015. Please check back for updated notes.*

**19. S-PR-0007795 Aslin, James and Phyllis - In Re the Trust of**

*Probate notes for this proceeding will be available Monday, August 3, 2015. Please check back for updated notes.*

**20. S-PR-0007797 Garrison Family - In Re the Trust of**

Petition to determine trust assets is recommended for approval as prayed.

**21. S-PR-0007803 Jones, Norma E. - In Re the Trust of**

Missing 30 days' personal service to LICT Corporation, Prob.C. § 851(a)(2).

**22. S-PR-0007804 Martin, Raymond L. - In Re the Estate of**

Clarification is needed: due to the significant passage time since decedent's death, petitioner should alleged the date of death of decedent's sibling and parent to clarify that none survived decedent.

**23. S-PR-0007820 Fine, Joseph - In Re the Estate of**

Missing notice of hearing. Missing proof of service of notice of hearing.

Revised publication is needed: original publication used the wrong case number.

Publisher has informally notified the court that the notice would be republished and that a new proof of publication would be filed.

**24. S-PR-0007825 Laidler, Edward W. - In Re the Trust of**

Clarification is needed: the petition appears to omit intended allegation(s) and/or language at 2:10-11 and 4:20.

Clarification is needed: the alleged trust instrument attached to the petition appears to omit any execution by the settlor.

**25. S-PR-0007834 Delehant, John and Irene - In Re the Trust of**

Trust petition is recommended for approval as prayed.

**26. S-PR-0007837 Perry, George L. - In Re the Estate of**

Missing required allegations at ¶ 5(a)(3)-(4) (RDP) and (7)-(8) (issue of predeceased child(ren)).

Missing authenticated copy of beneficiary trust or declaration of trust terms, Local Rule 80.2.1. The court cannot determine sufficiency of notice without this information, Prob.C. § 1208.

Missing original will, Prob.C. § 8200.

Will does not appear to waive bond as to petitioner. Sufficient bond allegations or waiver(s) of bond needed.

Clarification is needed: petition indicates spouse died on the same date as decedent, with no information as to order of death.

**27. S-PR-0007838 McDonald-Perry, Bette A. - In Re the Estate of**

Missing required allegations at ¶ 5(a)(3)-(4) (RDP) and (7)-(8) (issue of predeceased child(ren)).

Missing authenticated copy of beneficiary trust or declaration of trust terms, Local Rule 80.2.1. The court cannot determine sufficiency of notice without this information, Prob.C. § 1208.

Missing original will, Prob.C. § 8200.

Will does not appear to waive bond as to petitioner. Sufficient bond allegations or waiver(s) of bond needed.

Clarification is needed: petition indicates spouse died on the same date as decedent, with no information as to order of death.

**28. S-PR-0007839 Oshima, Ronald James - In Re the Estate of**

Missing authenticated copy of beneficiary trust or declaration of trust terms, Local Rule 80.2.1. Court cannot determine sufficiency of notice without this information, Prob.C. § 1208.

Note: missing signed duties form (DE-147). The clerk cannot issue letters until duties form is filed, C.R.C. 7.150.

**29. S-PR-0007842 Dotson Family - In Re the Trust of**

Appearance is required for hearing on trust petition.

Exhibit 3 to the petition, consisting of the purported Exhibit B to the trust, includes only one page as filed and appears to be incomplete.

Petitioner should be prepared to discuss how the term "corporate trustee," used consistently throughout the trustee provisions of the trust and amendments, can be read to include a non-entity private fiduciary.

Petitioner should be prepared to argue whether the planned loan arrangement to repair the Danville property, with repayment from sale proceeds, improperly imposes costs of maintenance and repair on the remainder beneficiaries, rather than on Rodney Dotson.

Additional information is needed: the petition argues that ongoing trust administration costs are excessive and the trust should be terminated or modified accordingly. No information about the costs of trust administration is provided. Additionally, petitioner should be prepared to address the trust's own provisions for termination, found at section III.C of the Third Amendment (p. 7 of Exhibit 4 to the petition), which do not appear to have been addressed in the petition.

The court is in receipt of the objections allegedly filed for Rodney Dotson. Missing verification by Mr. Dotson as required by Prob.C. § 1021.

**30. S-PR-0007843 Klank, Kenneth J. and Bernice N. - In Re the Trust of**

Missing direct service to Ruby Altman. Service in care of Mike Furukawa is insufficient, C.R.C. 7.51(a)(2).

**31. S-PR-0007844 Berberich, Harry J. - In Re the Trust of**

Trust accounting is recommended for approval as prayed.

**32. S-PR-0007845 Brown, Dennis W. - In Re the Matter of**

Real property succession petition is recommended for approval as prayed.

**33. S-PR-9913198 Marsten, Marion W., In re the Estate of – Deceased**

Twentieth account and report is recommended for approval as prayed.